



US Army Corps  
of Engineers  
Alaska District

# Public Notice of Application for Permit

Regulatory Branch (1145b)  
Post Office Box 6898  
Elmendorf AFB, Alaska 99506-6898

**PUBLIC NOTICE DATE:** 03 February 2005

**EXPIRATION DATE:** 07 March 2005

**REFERENCE NUMBER:** POA-2005-111

**WATERWAY NUMBER:** Wrangell Narrows

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States as described below and shown on the attached plan.

**APPLICANT:** William Menish, represented by Kenneth H. Elmore, P.E., Post Office Box 371, Petersburg, Alaska 99833; contact phone: (907) 772-5837.

**LOCATION:** Rocky Creek Subdivision, approximately 11 miles south of Petersburg and ½ mile south of Papke's Landing. The lots are located in the NW ¼ section 14, T. 60 S., R. 79 E., Copper River Meridian at Latitude 56°40'26" N., Longitude 132°55'43" W.

**WORK:** Construct a 220-foot by 18½-foot driveway to Lot 10A, construct a 50-foot by 18½-foot driveway to Lot 10B, and construct a 150-foot by 18½-foot driveway to Lot 10C, in the Rocky Creek Subdivision. Road width is measured from toe to toe of fill. The average depth of material would be 2½ feet and all material would be clean shot rock fill obtained from a commercial source. Approximately 550 cubic yards of material would be required.

**PURPOSE:** The driveways would provide access to the lots for prospective homeowners.

**ADDITIONAL INFORMATION:** The driveways would connect to existing roads in adjacent subdivisions. Total acreage of wetland impacted by the road construction would be 0.21 acre. It is likely that any residences built on the lots accessed by the proposed driveways would require additional wetland fill for development. Lot 10C contains a restrictive covenant which prohibits filling or other activities within the westernmost 322 feet of the lot. The restriction was required in a Consent Order issued by the Environmental Protection Agency as mitigation for the previous unauthorized fill activities conducted by Mr. Menish.

Rocky Creek subdivision is adjacent to two other Corps authorized projects for Mr. Menish: POA-1988-721 and POA-1998-998.

**WATER QUALITY CERTIFICATION:** A permit for the described work will not be issued until a certification or waiver of certification as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify that the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Office of Project Management and Permitting, Department of Natural Resources has concurred with the applicant's certification.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. Site PET 00273 is located in the vicinity of the project. Because it has been determined to be outside of the project area, no further action is required. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Engineer at this time. Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between the Federal government and Federally recognized Tribes. This notice invites participation by agencies, Tribes, and members of the public in the Federal decision-making process. In addition, Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe

ENDANGERED SPECIES: The project area is within the known range of the endangered humpback whale (*Megaptera novaeangliae*) and threatened Steller sea lion (*Eumetopias jubatus*). No threatened or endangered species are known to use the project area.

Preliminarily, the described activity will not affect threatened or endangered species, or their critical habitat designated as endangered or threatened, under the Endangered Species Act of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. Any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. et seq and associated federal regulations found at 50 CFR 600 Subpart K. The Alaska District includes areas of EFH as Fishery Management Plans. We have reviewed the January 20, 1999, North Pacific Fishery Management Council's Environmental Assessment to locate EFH area as identified by the National Marine Fisheries Service (NMFS).

We have determined that the described activity within the proposed area will not adversely affect EFH, including anadromous fish and federally managed fishery resources.

SPECIAL AREA DESIGNATION: None.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Mary Leykom at (907) 753-2720, toll free from within Alaska at (800) 478-2712, or by email at [mary.f.leykom@poa02.usace.army.mil](mailto:mary.f.leykom@poa02.usace.army.mil) if further information is desired concerning this notice.

AUTHORITY: This permit will be issued or denied under the following authorities:

(X) Discharge dredged or fill material into waters of the United States - Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

A plan, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and Notice of Application for State Water Quality Certification are attached to this Public Notice.

District Engineer  
U.S. Army, Corps of Engineers

Attachment(s)

# STATE OF ALASKA

OFFICE OF THE GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

## DIVISION OF WATER

401 Certification Program  
Non-Point Source Water Pollution Control Program

### NOTICE OF APPLICATION FOR STATE WATER QUALITY CERTIFICATION

Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice No. **POA-2005-111, Wrangell Narrows**, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify that there is reasonable assurance that the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

Any person desiring to comment on the project with respect to Water Quality Certification may submit written comments within 30 days of the date of the Corps of Engineer's Public Notice to:

Department of Environmental Conservation  
WQM/401 Certification  
410 Willoughby Avenue  
Juneau, Alaska 99801-1795  
Telephone: (907) 465-5321  
FAX: (907) 465-5274

# STATE OF ALASKA

OFFICE OF THE GOVERNOR

**DEPARTMENT OF NATURAL RESOURCES  
OFFICE OF PROJECT MANAGEMENT AND PERMITTING**

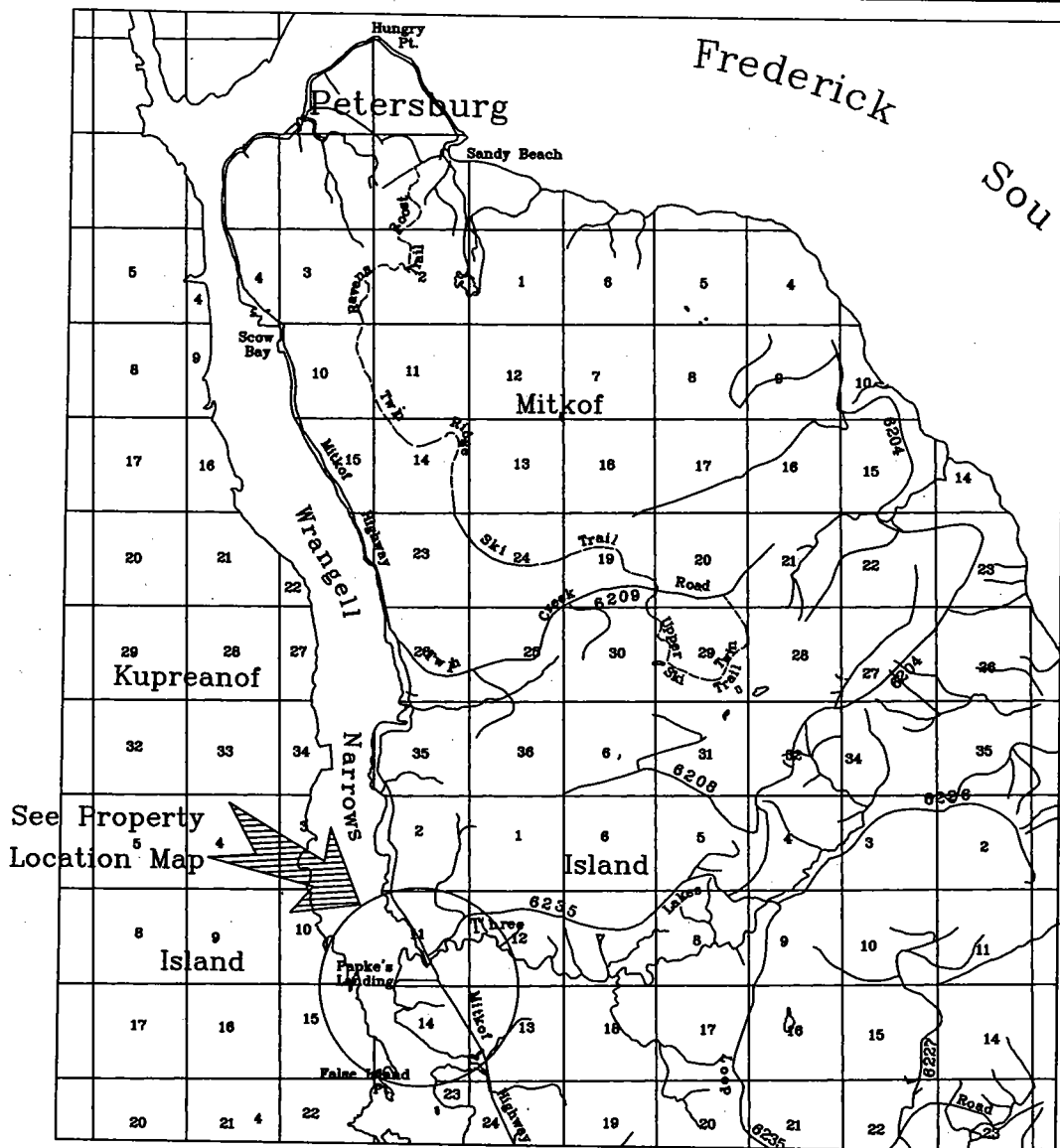
OFFICE OF PROJECT MANAGEMENT AND PERMITTING  
302 GOLD STREET, SUITE 202  
JUNEAU, ALASKA 99801-1127  
PHONE: (907) 465-3562/FAX: (907) 465-3075

**NOTICE OF APPLICATION  
FOR  
CERTIFICATION OF CONSISTENCY WITH THE  
ALASKA COASTAL MANAGEMENT PROGRAM**

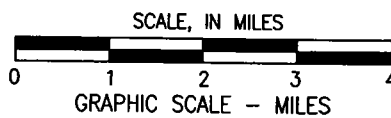
Notice is hereby given that a request is being filed with the Office of Project Management and Permitting for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No.

**POA-2005-111, Wrangell Narrows**, will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

The Office of Project Management and Permitting requests your comments, particularly on the proposed project's consistency with the affected local coastal district management program. For more information on the consistency review contact OPMP at (907) 269-7470 or (907) 465-3562, or visit the ACMP web site at <http://www.gov.state.ak.us/gdc/Projects/projects.html>.

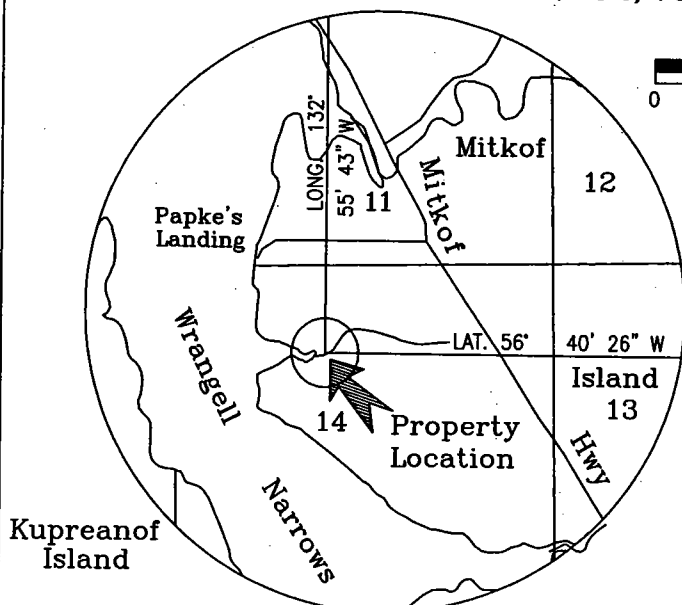


VICINITY MAP: USGS QUAD's, Petersburg C-3, Petersburg D-3



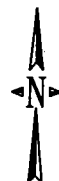
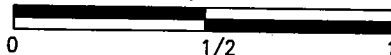
#### WRANGELL NARROWS:

Project Location: Near Papke's Landing,,  
11 Miles South of Petersburg, AK



PROPERTY LOCATION MAP

SCALE, IN MILES



**William Menish**

**Driveways at Rocky Creek**

**Subdivision near Petersburg, AK**

Location map

**Corps No. POA-2005-111**

Sheet 1 of 4

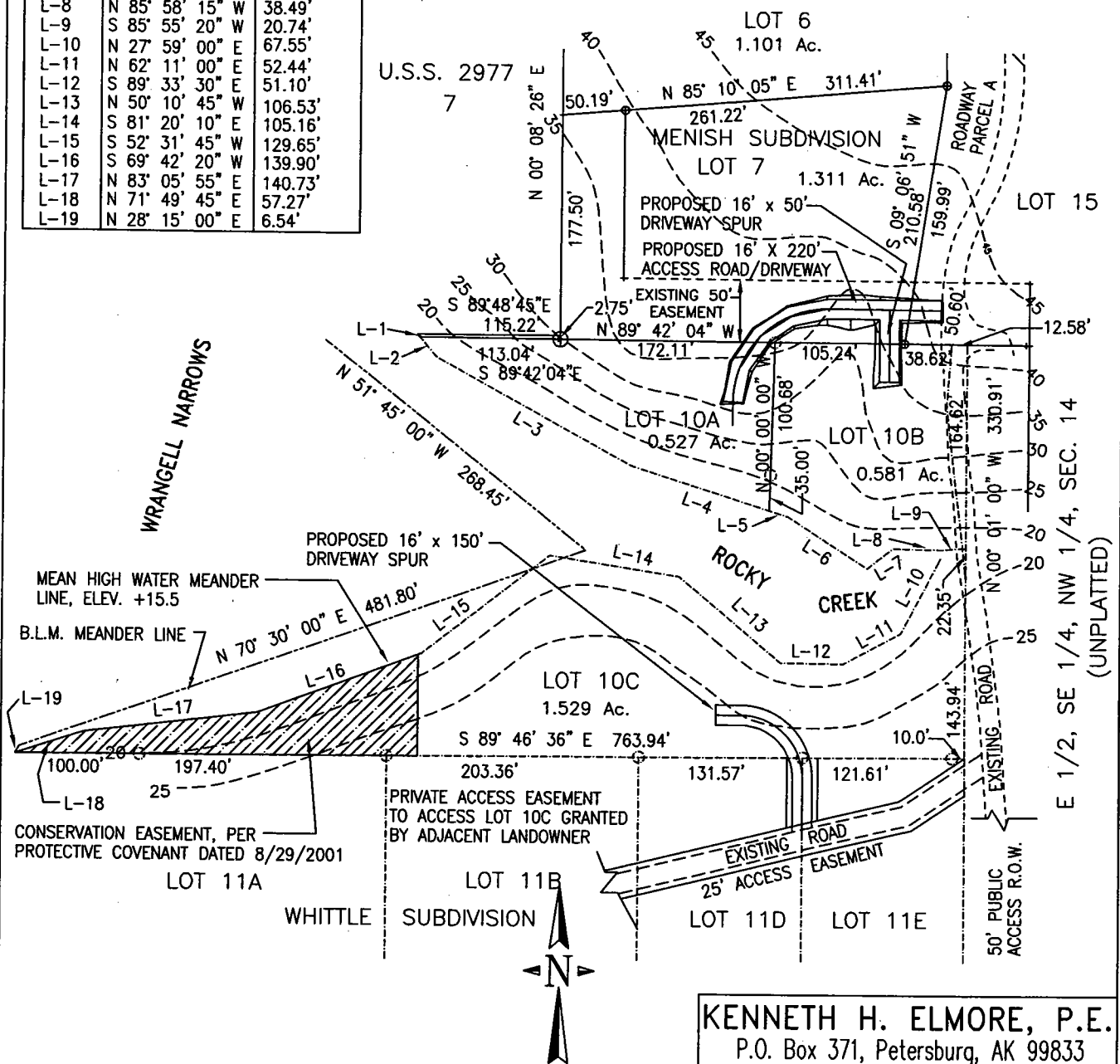
January 2005

Sec. 14, Township 60 S, Range 79 E, Meridian CRM

Scale: 1" = 2 Miles

SHEET 1 OF 4

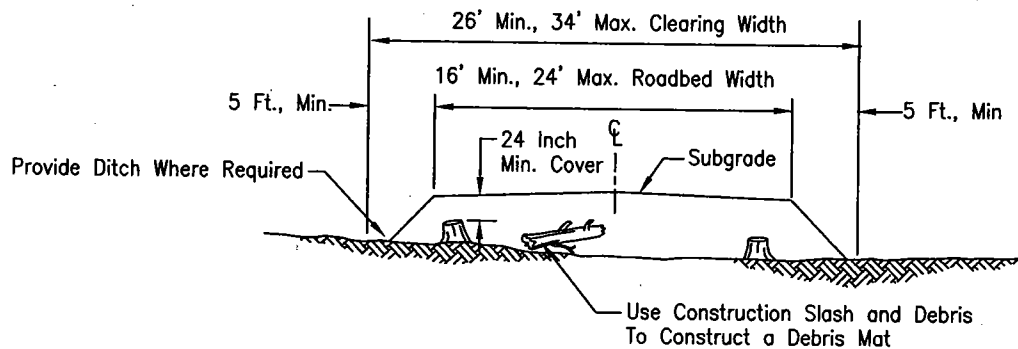
MEANDER LINES TABLE		
SEGMENT	BEARING	DISTANCE
L-1	N 41° 11' 00" W	3.37'
L-2	N 41° 11' 00" W	23.37'
L-3	N 61° 24' 50" W	179.55'
L-4	N 72° 31' 50" W	119.69'
L-5	N 72° 31' 50" W	12.50'
L-6	N 57° 37' 25" W	76.10'
L-7	S 52° 52' 55" W	26.59'
L-8	N 85° 58' 15" W	38.49'
L-9	S 85° 55' 20" W	20.74'
L-10	N 27° 59' 00" E	67.55'
L-11	N 62° 11' 00" E	52.44'
L-12	S 89° 33' 30" E	51.10'
L-13	N 50° 10' 45" W	106.53'
L-14	S 81° 20' 10" E	105.16'
L-15	S 52° 31' 45" W	129.65'
L-16	S 69° 42' 20" W	139.90'
L-17	N 83° 05' 55" E	140.73'
L-18	N 71° 49' 45" E	57.27'
L-19	N 28° 15' 00" E	6.54'



KENNETH H. ELMORE, P.E.  
P.O. Box 371, Petersburg, AK 99833

William Menish  
Driveways at Rocky Creek  
Subdivision near Petersburg, AK  
Subdivision plan drawing  
Corps No. POA-2005-111  
Sheet 2 of 4 January 2005

FILL MATERIAL DISCHARGES, VOLUMES, AND AREAS OF IMPACT				
DISCHARGE	TYPE OF MATERIAL	DIMENSIONS	VOLUMES	AREA OF IMPACT
Access Road/Driveway Spur Lot 10A	Clean Shot Rock	220 Ft. x 18.5 Ft. x 2.5 Ft.	285 Cubic Yards	0.086 Acres
Driveway Spur Lot 10B	Clean Shot Rock	50 Ft. x 18.5 Ft. x 2.5 Ft.	60 Cubic Yards	0.04 Acres
Driveway Spur Lot 10c	Clean Shot Rock	150 Ft. x 18.5 Ft. x 2 Ft.	206 Cubic Yards	0.086 Acres
TOTALS:			551 Cubic Yards	0.212 Acres



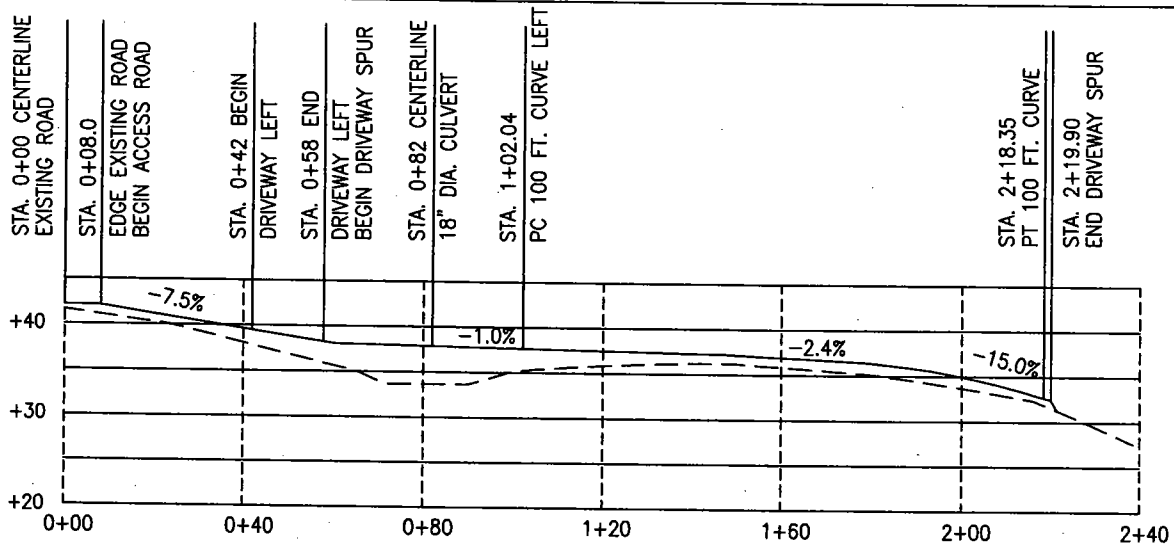
Stumps, Construction Slash, and Debris  
Not Used as a Mat Shall Be Removed  
From Property Lot and Disposed of in  
Contractor's Rock Pit

**TYPICAL ROCK OVERLAY SECTION**  
Not To Scale

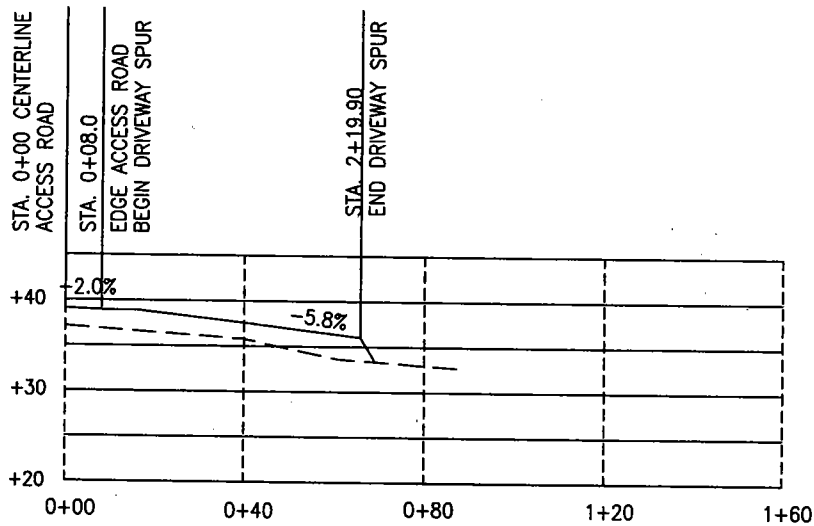
**KENNETH H. ELMORE, P.E.**  
P.O. Box 371, Petersburg, AK 99833

**William Menish**  
**Driveways at Rocky Creek**  
**Subdivision near Petersburg, AK**  
Typical cross section & calculations  
**Corps No. POA-2005-111**  
Sheet 3 of 4 January 2005



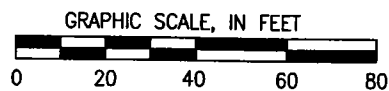


LOT 10A ACCESS ROAD/DRIVEWAY



LOT 10B ACCESS DRIVEWAY

LOT 10C DRIVEWAY SIMILAR, BUT 150 FT. LONG



VERTICAL SCALE EXAGGERATED BY A FACTOR  
OF 2 RELATIVE TO HORIZONTAL SCALE

**KENNETH H. ELMORE, P.E.**  
P.O. Box 371, Petersburg, AK 99833

**William Menish**  
**Driveways at Rocky Creek**  
**Subdivision near Petersburg, AK**  
Longitudinal cross sections  
**Corps No. POA-2005-111**  
Sheet 4 of 4      January 2005